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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Report on the human rights situation in the Republic of Equatorial Guinea submitted by Mr. Alejandro Artucio, Special Rapporteur of the Commission, pursuant to Commission resolution 1997/67

Addendum

GE.98-12661 (E)

Report on the Special Rapporteur's eighth mission to the Republic of Equatorial Guinea

1. The Special Rapporteur undertook his eighth official mission to Equatorial Guinea from 22 to 25 March 1998. On this as on previous occasions, he was accompanied by the Human Rights Consultant, Mr. Eduardo Luis Duhalde Hubert, who provided valuable support. He also had the benefit of the support of the Resident Representative of the United Nations Development Programme (UNDP) in Equatorial Guinea, Mrs. Sylvie Kinigi, and her staff.

2. The specific purpose of this mission by the Special Rapporteur and the Consultant was to ascertain in situ the scope, gravity and magnitude of the dramatic events on the island of Bioko, beginning on 21 January 1998, as well as their repercussions, in order to supplement the report submitted to the Commission on Human Rights on 13 January 1998 (E/CN.4/1998/73).

3. The mission was received by the following dignitaries: the Minister for Foreign Affairs, Mr. Miguel Oyono Ndong Mifumu; the Minister of Justice and Worship, Mr. Ruben Mayé Nsue Mangue; the Deputy Minister of the Interior and Local Communities, Mr. Clemente Engonga Nguema; the Deputy Minister for National Security, Mr. Manuel Nguema Mba; the Examining Magistrate, Lieutenant-Colonel Francisco Edu Nboro; the Prime Minister and Head of Government, Mr. Angel Serafín Seriche Dougan, and, finally, the President of the Republic himself, Mr. Obiang Nguema Mbasogo. The meetings took place in an atmosphere of understanding and cordiality. The Special Rapporteur expressly wishes to record that he received the cooperation of the authorities, indispensable for the successful conduct of his mission, and that no restrictions were placed on him.

4. Despite time constraints, the mission visited the various villages on the island of Bioko most affected by the events of 21 January and the days which followed, and made personal contact with the villagers, with no authorities present. The mission members were thus able to talk freely and in private to many of the inhabitants. They also met leaders of the political opposition in the capital, Malabo, and two of the defence lawyers for the persons now undergoing proceedings in the military courts for the incidents mentioned above.

5. On the morning of 25 March, the members of the mission also visited Malabo's General Police Station, where they met all 110 detainees and were able to talk freely and in private with any detainees they wished.

6. Again with the intention of obtaining information on the progress of democratization as well as on the human rights situation, the Special Rapporteur and the Consultant maintained contacts with the accredited diplomatic representatives in Malabo of the principal countries making up the donor community, including the Ambassador of Spain, Mr. Jacobo González de Arnau, the representative of the French Embassy, a representative of the Nigerian Embassy, and the representative of the European Union, Mr. Ignacio Sobrino.

7. In the early hours of 21 January, several extremely violent incidents occurred at various points on the island of Bioko, where a group of armed civilians, in what was described as "attempted armed rebellion", staged successive attacks on the military posts or police stations of Moka and Lubá and the police control point at Banapá, at the gates of Malabo.

8. In Lubá, where the armed incidents were not restricted to the police station but also spread to the home of the Deputy Governor and the electricity service, four persons were murdered by the "rebels": Mr. Feliciano Ndong Ondó, Corporal First Class of the Armed Forces and Security and three civilians - Mr. Garay, head of the Lubá electric power station, the husband of the Deputy Governor, and a neighbour, Mr. Marcelino Malope Mele. In Moka, the attackers killed two members of the police, Mr. Alberto Nsue Obono and Mr. Mauricio Ela Nguema, and took their weapons. The bodies of the two policemen were horribly mutilated and their genitals cut off. A member of the security forces was wounded at the police control point of Banapá.

9. The authorities declared a state of maximum alert and large numbers of soldiers and police were moved to the various towns and villages affected. During the hunt for the "rebels" the security forces killed two civilians, presumed members of the attacking commando - the young Gustavo Mulé, in the outskirts of Belebú village, and Marcos Manuel Rope Bitá in the environs of Rebola. According to evidence gathered by the mission in situ, both young men were wounded when captured and the actual cause of their death is unknown.

10. Repression following the attacks of 21 January: after the above incidents, the places where they occurred, the villages where some of the attackers took refuge and others where there is known opposition to the Government from the Bubi ethnic group were immediately occupied by large numbers of soldiers and members of the security forces, accompanied by persons not in uniform; it could not be ascertained whether these were plain-clothes members of the security forces or actually civilians collaborating with them. These contingents, which were pursuing the "rebels" and anyone who might have helped them, occupied the villages for several days, and entered practically all the houses without a search warrant, often breaking down doors and shattering windows in the process. Instances of looting, as well as the harassment of the civilian population, followed; money, articles and animals were taken from the inhabitants and in some cases sums of money were demanded under threat of arrest.

11. It should be stressed that the rapid reaction of the President of the Republic and the Government averted more serious problems which could have had major repercussions in view of the climate of unrest which sprang up in the island and the risk of a slide into ethnic conflict between the Fang and the Bubi sectors of the population. The Government issued a ministerial order warning that punishment for any violation, abuse of authority or misconduct, whether by agents of the authorities or by civilians, would be draconian. The President of the Republic appealed publicly for "calm, harmony, mutual support and peaceful coexistence" and asked people to "refrain from personal acts of reprisal". In this way it was possible to stem the excesses and restore normality.

12. According to official information, during the days following the incidents, some 550 people were arrested and imprisoned. Three of these, who had been taken to Malabo General Police Station, died in custody. They were: the nurse, Mr. Ildefonso Bocubo, charged with giving assistance to wounded persons in the attacking group, who was tortured to death, according to his family; secondly, a young man from Belebú village, Mr. Ireneo Barbosa, died of a malaria attack in Malabo hospital where he was in custody, according to the official report. However, direct evidence gathered by the mission in the village where he was apprehended indicates that when he was arrested he was in good health. The third case was Mr. Carmelo Djeck Bohopa, who died in prison on 9 February, following his arrest three days earlier as he was leaving a church in the town of Malabo.

13. No autopsy, which would have enabled the cause of death to be ascertained, was performed in any of the three cases. In any event, the Special Rapporteur ventures to point out that the State must be considered responsible for failing to guarantee the safety and integrity of the persons in its custody, at least until it could have provided reliable evidence that the deaths were due to natural causes, which it did not do. Under its international commitments, the State is required to carry out a prompt and impartial investigation, to initiate proceedings and, where necessary, to impose appropriate penalties on those responsible, and compensate or indemnify the relatives of the victims for the losses suffered.

14. Treatment of detainees: of the 550 persons originally arrested, 110 were still in prison at the time of drafting this report, pending criminal proceedings against them. To begin with, they were concentrated in the General Police Station and Malabo Public Prison (Black Beach) in conditions of extreme overcrowding. As the weeks went by, successive decisions were taken to release prisoners and those still held in custody are now all at the headquarters of the General Police Station in Malabo. These premises are unsuitable for housing so many people and the conditions of persistent overcrowding, lack of hygiene and inadequate food are very trying. Many of the prisoners have been subjected to severe torture and beatings and show physical signs of injury and ill treatment (on legs and arms), as do those released. Although one or two persons have been allowed visitors - for example, four Guineans who are also Spanish nationals, who receive visits from the Spanish Consul in Malabo - the majority remain incommunicado despite the length of time that has elapsed. Two Nigerian citizens are also in custody and undergoing proceedings. The incommunicado situation extends to counsel for many of the detainees, since the lawyers Mr. José Oló Obono and Mr. Fabián Nsue Nguema have not been allowed to interview their clients or give them technical assistance.

15. The initiation of proceedings in the military courts and the risk of the death penalty being applied: the above-mentioned events of 21 January have meant that military jurisdiction prevails. Proceedings are still at the pre-trial stage and the Special Rapporteur and the Consultant were able to talk to the Military Examining Magistrate. The Special Rapporteur warns that, in view of the extremely summary nature of military trials at the hearing and sentencing stage and the restrictions they impose on the right of defence, especially with regard to the placing of the burden of proof on the defendants, the possibility for which the Code of Military Justice and the

Criminal Code in force in Equatorial Guinea provide, that the death penalty will be applied - there have been instances - becomes particularly acute, since this may happen even though all the remedies and appeals for mercy to which those sentenced have a right have not been exhausted. This could mean an irreversible failure to comply strictly with due process of law. Here, the Special Rapporteur reiterates what he said in paragraph 43 of his report (E/CN.4/1998/73), that insofar as Equatorial Guinea provides for the death penalty in its legislation, to express an opinion on its appropriateness or otherwise would be to go beyond his terms of reference.

16. The Special Rapporteur draws the following conclusions from his visit:

(a) The January incidents were strictly confined to the island of Bioko and had no repercussions on the rest of the territory of Equatorial Guinea;

(b) The institutional and social life of the island has now returned to normal and the emergency security measures imposed have been almost entirely lifted;

(c) During the crackdown of the military and security forces in several towns and villages, serious human rights violations were committed by government agents not only against the alleged perpetrators of the incidents but also against a broad sector of the civilian population.

17. What happened confirms the Special Rapporteur's conviction, expressed in his earlier reports, of the precarious nature of the progress achieved in the observance of human rights and fundamental freedoms and leads him to advise the Commission not to relax its monitoring of the situation, since in any crisis it is important to ensure that no immediate regression takes place, in the form of a lack of legal protection of the population and a return to practices which seriously violate human rights, such as torture, arbitrary detention, house searches without a warrant, and pillaging and looting, going back - once the crisis has been defused - to the situation described in the December 1997 report.

18. At the same time, events confirm the weakness of Equatorial Guinea's civil society and all of its political parties, which do not seem to be sufficiently efficient to consolidate the progress in democracy and prevent the backsliding mentioned above. The relatively low level of activity of the opposition parties may be noted; the result of this lack of vigour is that the national political stage is occupied almost exclusively by the Government and its political supporters.

19. The emergency measures taken, the impossibility of using the roads linking the various villages and the fact that a very large number of people from different parts of the island had been detained gave rise to all kinds of stories, further magnifying the events which in themselves were already very serious. The Special Rapporteur and the Consultant travelled to the villages where rumour had it that there had been mass shootings and clandestine burials, but these were denied by the local civilian population. No disappearances have been reported to the mission either, nor is there any indication that serious acts of this nature can be presumed to have occurred;

it is therefore reasonable to take it that they did not. Similarly, information from outside Equatorial Guinea concerning mass killings of Nigerian citizens should be disregarded as untrue; it was denied by the Nigerian Chargé d'affaires in Equatorial Guinea and by the civilian population of the areas where most of the Nigerians have settled.

20. Underlying ethnic problems and the danger of their aggravation: the groups most prominent in the events of 21 January all belong to the Bubi ethnic group, which has the widespread feeling of being discriminated against by the dominant ethnic group, the Fang. Initially, the Government described the attackers as belonging to the Movimiento de Autodeterminación de la Isla de Bioko (MAIB), although the Special Rapporteur has been unable to verify this claim, which is denied by MAIB leaders. The villages under military occupation, the populations of which have been subjected to harassment, and almost all the detainees, also belong to this ethnic group. The foregoing cast a more serious light on the situation described in paragraphs 62 and 63 of the December 1997 report to the Commission (E/CN.4/1998/73). The Special Rapporteur would particularly like to inform the Commission on Human Rights that the events of January 1998 should be taken as a sharp warning, since a worsening of the present situation could indeed lead to an ethnic conflict of unforeseeable consequences, with all the possible ensuing feelings and excesses. The Government should thus be respectfully recommended seriously and firmly to promote forms of dialogue with a view to the full integration of all the ethnic components of society.